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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/878,356	06/18/1997	ANTHONY PUMA		7005

7590 02/27/2003

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EXAMINER

HARRISON, JESSICA

ART UNIT PAPER NUMBER

3714

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

08/878,356

Applicant(s)

PUMA ET AL.

Examiner

Jessica J. Harrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21,22 and 25-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21,22 and 25-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Priority***

It is noted that applicant's preliminary amendment of 6/18/1997 altered the statement of the priority claim at the first line of the specification to state that the application was a continuation of 08/116249. This statement is untrue as the instant application contains subject matter not present in the prior application. It is believed that the original statement of chain of priority was correct. Applicant should review the claim for priority and correct as necessary.

***Drawings/Appendix***

This application contains drawings 1-23 (including alphas). At least drawings 19 – 23 are informal. It is requested applicant submit a complete set of formal drawings for review/approval.

It is also noted the instant application contains reference to attached appendices. These do not appear to be present in the file. Appendix listings of the type applicant submitted in the prior application may be submitted as part of the specification, or as drawings. It is requested applicant represent the appendices, either as additional pages to the end of the specification, or as additional drawings. Note that if presented as drawings, appropriate amendments to the specification will also be required.

***Information Disclosure Statement***

It is noted that a substantial amount of prior art is cited on applicant's prior patent 5,527,033. The examiner is in the process of obtaining the parent

file for review of the art contained therein, as such art is considered pertinent to the instant application. If applicant has a copy of the prior PTO 1449 listing the US patents and particularly the non-patent literature, it is requested he submit it, addressed to the instant file, with the response to this office action. This is for the convenience of the examiner to avoid the retyping of all information on a new form. Copies of the information will be reviewed from the parent file; a listing if readily available is all that is being requested.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 26, 27, 28, 32, 34, 35, 37, 39 and 42 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection. More specifically, the examiner fails to find basis in the specification for the features set forth in these claims. No disclosure is seen of the game being a simulated game, a simulated hockey game or a video game. No disclosure is seen setting forth the definition of the box scores, how or when they are obtained, or that the execution of the statistical conversion is accomplished in

real time. Applicant should point out the specific page and line of specification where each of these claims is supported, or delete the new matter.

Claims 26, 27, 28, 32, 34, 35, 37, 39 and 42 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As these claims recite subject matter not contained within the original specification as set forth above, the original specification fails to enable these claims as well.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21, 22, and 25 –42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 21, the preamble language “the improvement being wherein said intermediate statistical data are identifiable by a combination of respective characters within, and are routable to a calculating means so as to obtain statistics therefrom, comprising in combination:” is confusing. It is not clear exactly what the improvement is. It is not clear what the “combination of respective characters within” refers to. Furthermore, stripping the adjectives from the claim reveals “In a *converting device*...the improvement being...comprising in combination *converting means*, said *converting device*

including a data base, a means for converting, and storage means. There appears to be a circular definition in the converting device comprising a converting device. Perhaps the second converting device should be the converting means? Similarly, claim 25 sums to "A device for converting...comprising in combination: converting means comprising a converting device comprising database, means for converting, and storage means comprising (things stored in database) and calculating means." It is not clear which level of the nested claim the calculating means is related to, and it appears that the "comprising (things stored in database)" should be further defining the statistical data rather than the storage means. Looking at independent claim 33 in the same manner reveals "A device for converting comprising converting means comprising a converting device comprising means for converting comprising time and goals, and calculating means." This claim is vague and confusing, rendering its meaning and scope incomprehensible. Finally, each of claims 32, 37, 38 and 42 provide listings of possibilities and alternatives of all combinations and of such breadth that it is unclear if they actually further limit their parent claim. For example, claim 37 sets forth "at least one of (listing of 28 possibilities), with the last possibility being "and combination of at least two thereof". Claim 38 recites similar language. While the examiner is not a skilled claims draftsman, applicant should consider using some similar generic language such as "wherein said at least one box score comprises any data obtained from a game"(dependent, of course, on a

standard definition of a box score, or any supplied in applicant's specification). Furthermore, it is not clear why the time period in which the box score is obtained further limits the device for converting the score (claim 32, 42).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Wayner has been cited as it relates to a method of converting sports statistics to a graphical summary form to allow people to study the outcome of games and quickly determine the most important and salient facts about the play. Note that Wayner plots accrued time versus score or important event.

It appears as though applicant's claims encompass allowable subject matter as the prior art fails to show or clearly suggest a converting device that converts box scores, through intermediate statistics, to final statistics of the type disclosed in the application. Applicant should more clearly define the invention in his claim language.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica J. Harrison whose telephone number is 703-308-2217. The examiner can normally be reached on 8 hour/M-F.

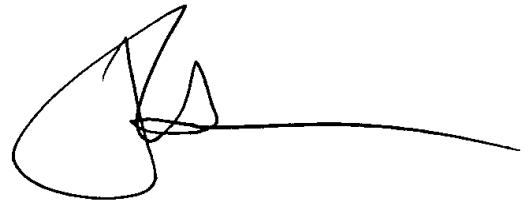
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is

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assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

jjh  
February 21, 2003

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a horizontal line extending to the right.

JESSICA HARRISON  
PRIMARY EXAMINER